

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

EDUARDO ERNESTO ORTIZ-CASTILLO,

Case No. 2:23-cv-01485-RFB-VCF

Petitioner,

ORDER

v.

THE UNITED STATES OF AMERICA, *et al.*,

Respondents.

Petitioner Eduardo Ernesto Ortiz-Castillo has filed a petition for federal habeas corpus relief under 28 U.S.C. § 2241, motion for leave to proceed *in forma pauperis* (“IFP”), and motion for appointment of counsel. (ECF No. 1-1, 3, 3-1.) Ortiz-Castillo challenges his prolonged detention without a fair bond hearing pending the Ninth Circuit Court of Appeals’ decision on his removal. (ECF No. 1-1.) Having conducted a preliminary review of the petition, the Court directs that it be served on Respondents. The Court grants the motion to proceed IFP but denies the motion for appointment of counsel without prejudice given that (1) there is no constitutional right to appointed counsel in a federal habeas corpus proceeding, (2) this case is not especially complex, and (3) Ortiz-Castillo has shown himself capable of fairly presenting his claims. See 18 U.S.C. § 3006A(a)(2)(B); Pennsylvania v. Finley, 481 U.S. 551, 555 (1987); Luna v. Kernan, 784 F.3d 640, 642 (9th Cir. 2015) (citing Lawrence v. Florida, 549 U.S. 327, 336–37 (2007)); LaMere v. Risley, 827 F.2d 622, 626 (9th Cir. 1987); Brown v. United States, 623 F.2d 54, 61 (9th Cir. 1980).

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1 **IT IS THEREFORE ORDERED** that the motion for leave to proceed *in forma pauperis*
2 (ECF No. 3) is **GRANTED**.

3 **IT IS FURTHER ORDERED** that the motion for appointment of counsel (ECF No. 3-1)
4 is **DENIED** without prejudice.

5 **IT IS FURTHER ORDERED** that Clerk of Court (1) file the petition (ECF No. 1-1) and
6 (2) serve the petition on Respondents as follows:

- 7 1. By serving a copy of the petition (ECF No. 1-1) and this order on the United States
8 Attorney for the District of Nevada in accordance with Rule 5(b)(2)(E) of the
9 Federal Rules of Civil Procedure.
- 10 2. By sending a copy of the petition (ECF No. 1-1) and this order by mail pursuant to
11 Rule 5(b)(2)(C) of the Federal Rules of Civil Procedure to: (1) Alejandro
12 Mayorkas, Secretary of the Department of Homeland Security, 2707 Martin Luther
13 King Jr. Ave SE, Washington, DC 20528; (2) Merrick B. Garland, Attorney
14 General of the United States, 950 Pennsylvania Avenue, NW, Washington, DC
15 20530-0001; and (3) Kerri Ann Quihuis, ICE Field Office Director for Nevada,
16 501 Las Vegas Boulevard South, Suite 536, Las Vegas, NV 89101.

17 **IT IS FURTHER ORDERED** that Respondents must file and serve their response to the
18 petition within 21 days of the date of this order, unless additional time is allowed for good cause
19 shown.

20 **IT IS FURTHER ORDERED** that the Clerk of Court is instructed to **STRIKE** the
21 December 12, 2023, Order (ECF No. 5) as entered in error.

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1 **IT IS FURTHER ORDERD** that the Clerk of Court is instructed to provide a copy of this
2 order to Mr. Ortiz-Castillo.

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4 **DATED:** December 13, 2023.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT COURT